

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS : Consolidated Under
LIABILITY LITIGATION (No. VI) : MDL DOCKET NO. 875

MATTOX

v.

VARIOUS DEFENDANTS

FILED

MAY 31 2011

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk
ORDER

Case No. 07-73489

Transferred from the Western
District of North Carolina

AND NOW, this 26th day of **May, 2011**, it is hereby

ORDERED that the hearing scheduled for **June 30, 2011 at 10:30 am** before Magistrate Judge M. Faith Angell will now be held before Judge Robreno **in Courtroom 11A, 601 Market Street, Philadelphia, PA 19106**. The date and time of the hearing remain the same.¹

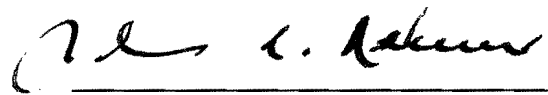
It is further **ORDERED** that a Rule is **ISSUED** for Defendants to show cause why all motions for summary judgment based on the North Carolina statute of repose (doc. nos. 24, 26/27, and 84) should not be denied based on the Court's holding in Malpass v. Armstrong World Industries, 06-cv-68065, doc. no. 10, p.4 (Mar. 2, 2011).²

¹ A list of opposed motions to be heard is attached as Exhibit "A." Counsel should notify the MDL 875 law clerk (emily_k_breslin@paed.uscourts.gov) as soon as possible if there are any changes to be made to the list.

² These Motions for Summary Judgment assert that Plaintiff's claims are time-barred based on North Carolina's Statute of Repose. Judge Angell issued an order on October 7, 2010, stating that all motions regarding the North Carolina statute of repose would be denied without prejudice, to be remanded to the Northern District of North Carolina for consideration, as they involved state-law statutory interpretation. (See doc. no. 76).

It is further **ORDERED** that a hearing on the Rule to show cause is **SCHEDULED** for **June 30, 2011 at 10:30am in Courtroom 11A, 601 Market Street, Philadelphia, PA 19106.**

AND IT IS SO ORDERED.



EDUARDO C. ROBRENO, J.

In March 2011, this Court held oral argument on summary judgment motions in an unrelated case, wherein Defendants had also moved for summary judgment on the North Carolina statute of repose. The Court held that the North Carolina Statute of Repose does not apply to latent-disease injuries, such as those caused by exposure to asbestos. See Malpass v. Armstrong World Industries, 06-cv-68065, doc. no. 10, p.4 (Mar. 2, 2011) (Robreno, J.) ("[T]his Court agrees with the approach taken by the Hyer court. [Hyer v. Pittsburgh Corning Corp., 790 F.2d 30, 34 (4th Cir. 1986)]. The North Carolina statute of repose is more aptly suited to personal injury claims where the injury is traceable to single moment in time and therefore, the statute of repose does not apply to claims stemming from latent diseases.").

Exhibit A

Case number/ Document number	Case and Motion Information	Notes
<u>2:07-cv-73489- ER</u>	MATTOX v. AMERICAN STANDARD, INC. et al <i>Case filed: 11/26/2007</i>	<i>Cause: 28:1332 Diversity- Asbestos Litigation NOS: 368 Office: Philadelphia Jurisdiction: Diversity Presider: EDUARDO C. ROBRENO Settlement: M. FAITH ANGELL Jury demand: None Case flags: ASBESTOS, CASREF/ASB, MDL-875, MFA/ASB, NC-W</i>
<u>81</u>	MOTION for Partial Summary Judgment <i>Based on the Federal Military Contrator Defense</i> <i>Motion filed: 11/22/2010</i> <i>Filed by: GENERAL ELECTRIC COMPANY</i>	<i>Reply filed: 01/24/2011 Hearing set: 06/30/2011</i>
<u>83</u>	MOTION for Summary Judgment <i>Motion filed: 11/22/2010</i> <i>Filed by: WARREN PUMPS, LLC</i>	<i>Response filed: 12/22/2010 Reply filed: 01/24/2011 Hearing set: 06/30/2011</i>
<u>85</u>	MOTION for Summary Judgment <i>Motion filed: 11/22/2010</i> <i>Filed by: GOULD PUMPS, INCORPORATED</i>	<i>Response filed: 12/22/2010 Reply filed: 01/24/2011</i>
<u>86</u>	MOTION for Summary Judgment <i>Motion filed: 11/22/2010</i> <i>Filed by: GEORGIA-PACIFIC CORPORATION</i>	<i>Response filed: 12/22/2010 Reply filed: 01/24/2011 Hearing set: 06/30/2011</i>
<u>87</u>	MOTION for Summary Judgment <i>Motion filed: 11/23/2010</i> <i>Filed by: CRANE CO.</i>	<i>Response filed: 12/22/2010 Reply filed: 01/24/2011</i>